

So Ordered.

Dated: January 19th, 2023



  
Whitman L. Holt  
Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WASHINGTON

In re:

MENSONIDES DAIRY, LLC, and  
ART & THERESA MENSONIDES,

Debtors.

CHAPTER 11

No. 18-01681-WLH11 LEAD CASE

No. 18-01683-WLH11

ORDER GRANTING MOTION TO  
SELL DAIRY'S REMAINING  
HEIFERS AND MILK COWS BY  
AUCTION ON A ROLLING BASIS

This matter having come before the court on the Motion (the "Motion")<sup>1</sup> of Matthew McKinlay ("McKinlay"), as Plan Agent of the Debtors' First Amended Joint Chapter 11 Plan of Reorganization [Docket No. 479] (the "Plan"), for entry of an order authorizing McKinlay to sell the Dairy's remaining (a) heifers ("Heifers") by auction and on a rolling basis and (b) milk cows ("Milk Cows" and, together with the Heifers, the "Livestock") as they go dry by auction on a weekly basis, pursuant to the Order

<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Motion or the Plan Agent Order, as applicable.

ORDER GRANTING MOTION TO SELL DAIRY'S  
REMAINING HEIFERS AND MILK COWS BY  
AUCTION ON A ROLLING BASIS - PAGE 1

SUSSMAN SHANK LLP  
ATTORNEYS AT LAW  
1000 SW BROADWAY, SUITE 1400  
PORTLAND, OREGON 97205-3089  
TELEPHONE (503) 227-1111  
FACSIMILE (503) 248-0130

1 Appointing Plan Agent [Docket No. 959] (the “Plan Agent Order”), and the court  
2 having reviewed the Motion and the supporting Declaration of Matthew McKinlay,  
3 the Objections of Pioneer Commodities, LLC (“Pioneer”) [Docket No. 1082], and Art  
4 Mensonides, Theresa Mensonides, and Mensonides Dairy LLC (the “Mensonides”)  
5 [Docket 1076], and the court’s files herein; and this court having jurisdiction and  
6 authority over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157(b)(2)(A) and the  
7 Confirmation Order [Docket No. 499] and the Plan Agent Order; and the court finding  
8 cause exists to grant certain relief requested in the Motion. Now, therefore, it is hereby

9 ORDERED:

10 1. The Motion [Docket No. 1067] is GRANTED as set forth herein.

11 2. McKinlay is authorized to retain Toppenish Livestock (“Toppenish”) to  
12 sell (a) Heifers by auction and on a rolling basis and (b) Milk Cows as they go dry by  
13 auction on a weekly basis.

14 3. McKinlay is authorized to sell the Livestock per above at various auctions  
15 held by Toppenish and pursuant to the terms set forth in the Auction Agreement  
16 beginning on January 19, 2023.

17 4. Toppenish shall disburse the net sale proceeds from the auction sales as  
18 follows:

19 (a) \$50,000 shall be set aside in a mutually agreeable segregated  
20 account (together with the \$600,000 previously set aside by the Plan Agent) and held  
21 pending (i) further order of this court or other relief that may be granted in an  
22 appropriate forum that addresses the claims of Pioneer and any disbursements from  
23 such account, or (ii) a written stipulation signed by the Plan Agent, Pioneer, and  
24 AgWest fka Northwest Farm Credit Services (“AgWest”) that provides for disposition  
25 of the segregated funds and that is filed on the docket; and

26  
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REMAINING HEIFERS AND MILK COWS BY  
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(b) The full balance of the remaining net sale proceeds shall be remitted to AgWest per the remittance instructions currently held by Toppenish.

5. McKinlay is authorized to pay Toppenish ~~shall be paid~~ a 5% commission rate from the auction proceeds and certain other expenses incurred in auctioning the Livestock.

6. McKinlay retains the right to include any remaining Livestock in a sale of the Dairy as a going concern or of the Dairy Assets (including the Dairy's real property) upon entry of a subsequent court order approving such a sale.

7. McKinlay is authorized to execute such documents and take such further actions as may be necessary or appropriate to accomplish the terms of this order. ~~and~~

8. All parties' rights and claims are expressly reserved, and by entering this order the court is overruling Pioneer's and the Mensonides' Objections solely to authorize the proposed sale of the Livestock by auction and for disbursements of such sale proceeds to be made pursuant to the terms set forth herein. Entry of this order does not address the merits of the remaining issues identified in the Objections but instead defers ruling thereon to a date to be determined.

// END OF ORDER //

PRESENTED BY:

SUSSMAN SHANK LLP

/s/ Jeffrey C. Misley

By

Jeffrey C. Misley, WSBA #33397  
Attorneys for Matthew McKinlay, Plan Agent

\* Changes made by court

\*24172-012\ORDER APPROVING MOTION TO SELL LIVESTOCK AT AUCTION (FINAL)\(FILED W/COURT ON 011923) (04163548);1

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SUSSMAN SHANK LLP  
ATTORNEYS AT LAW  
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FACSIMILE (503) 248-0130